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October 5, 1992

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, D.C. 20554

Re: In the Matter of: Price Cap Performance Review For AT&T, CC Docket No. 92-134

Dear Ms. Searcy,

Enclosed herewith for filing are the original and nine (9) copies of MCI Telecommunications Corporation's Reply Comments in the above captioned matter. Also enclosed is a copy of MCI's filing on a computer diskette, with a format consistent with WordPerfect 5.1.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Reply Comments furnished for such purpose and remit same to the bearer.

Yours truly,

Michael F. Hydock  
Senior Staff Member  
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**In the Matter of:** )

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**Price Cap Performance Review** )  
**For AT&T** )

) **CC Docket No. 92-134**  
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**Reply Comments of MCI**

MCI Telecommunications Corporation (MCI) respectfully submits these Reply Comments in the above-captioned Notice of Inquiry.<sup>1</sup>

**I. Introduction**

In MCI's original comments, MCI indicated that it supported broad aspects of the Commission's original AT&T price cap proposals.<sup>2</sup> This support was predicated on the belief that competition in the interexchange industry had developed to the point that detailed rate of return regulation for AT&T was no longer necessary, and indeed, could become counter-productive. Price caps appeared to be a reasonable means to protect those ratepayers subject to fewer competitive alternatives from price gouging by AT&T, while at

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<sup>1</sup> In the Matter of Price Cap Performance Review for AT&T, CC Docket No. 92-134, Notice of Inquiry, (NOI), released July 17, 1992.

<sup>2</sup> In the Matter of Price Cap Performance Review for AT&T, CC Docket No. 92-134, Notice of Inquiry, Comments of MCI, (MCI Comments), filed September 4, 1992, p.1

the same time allowing additional Commission resources to be focused on the monopoly local exchange carriers (LECs).

In these reply comments, MCI wishes to briefly summarize its main points in this matter, and address portions of certain comments raised by other parties.<sup>3</sup> MCI wishes to insure that the Commission's review of the AT&T performance under price caps is clearly distinguishable from any review or inference of LEC performance under similar regulatory structures. MCI's thesis is that competition, not price caps per se, have brought to the end-user consumers the benefits of lower prices and increased service offerings. In fact, the actual price indices exhibited by AT&T demonstrates that the most competitive baskets and service bands exhibited the largest amount of below-cap pricing.<sup>4</sup> This contrasts with the experience of the AT&T's more captive basic rate service customers who have seen proportionately less of AT&T's price reductions.

Following from this premise, it is incumbent for the Commission to recognize that the promotion of policies to insure the continued development of fair and meaningful competition in the interexchange and international marketplace is required. Continued Commission oversight of the interexchange marketplace is required, particularly in the equal access related areas of 800 number portability and billed party preference (BPP), as well as other areas such as 0+ public domain, reasonable and non-discriminatory access

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<sup>3</sup>Comments in this docket were filed by American Telephone and Telegraph Company (AT&T), Sprint Communications Company LP (Sprint), Southwestern Bell Telephone Company (SWBT), US WEST Communications, Inc. (US WEST), Communications Workers of America (CWA), Interexchange Resellers Association and Telecommunications Marketing Association (IRA/TMA), and Aeronautical Radio, Inc. (ARINC).

<sup>4</sup>MCI Comments, pp. 9-10.

charges, and the enforcement of rules and precedents requiring AT&T to provide services on a generally-available basis subject to resale and unbundling.<sup>5</sup>

MCI is unaware of any reason to continue price cap regulation of AT&T once equal access programs -- 800 number portability and billed party preference -- have both been established. If the Commission does find the need to continue some level of price cap regulation of AT&T, MCI is unaware of any compelling reason to modify either the basic price cap formula or the productivity offset. MCI's sole concern in the continuation of AT&T price cap regulation is the composition of Basket 1 -- which includes a mix of somewhat competitive services with the less competitive basic rate schedule service of AT&T. In this regard, the Commission may wish to alter the composition of the basket to ensure that the non-equal access and/or low usage rate payers can receive their proportional share of AT&T rate reductions. MCI, in its original comments, demonstrated that the basic rate schedule MTS customers -- end users in non-equal access offices that cannot avail themselves of competitive alternative and low-usage customers unable to qualify for the more discounted optional calling plans -- received less generous price reductions than customers of other services within Basket 1.<sup>6</sup>

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<sup>5</sup>In addition to these issues, the lack of full and equal competition in the international marketplace has been noted by Sprint in its comments in the instant proceeding [Sprint Comments at 5-7]. MCI believes that Sprint's comments in regard to AT&T's dominance in the international market, with regard to accounting rate negotiations, are quite accurate. MCI has already addressed these concerns as well in CC Docket No. 90-132. Like the operator services market and the 800 market, MCI believes that the answer to this dominance is best found in market rules that prevent AT&T from leveraging its position, not in the price cap rules themselves.

<sup>6</sup>MCI Comments, p. 9-10.

## II. AT&T's CONTENTIONS REGARDING THE COMPETITIVENESS OF THE 800 MARKETPLACE ARE INCOMPLETE

AT&T's initial comments in this proceeding attempt to minimize the anti-competitive effects of the lack of number portability in the 800 marketplace. Arguing that the 800 marketplace is no less competitive than other business services, AT&T completely disregards the Commission's own view of the crucial impact 800 portability will have towards enabling fuller 800 marketplace competition. AT&T, in its comments, points to its rivals' capacity to absorb new traffic, the alleged willingness of customers to change carriers to take advantage of lower costs and more desirable features, and its own purported market share declines as evidence that the 800 marketplace is competitive.<sup>7</sup> Yet, in that same order cited by AT&T, the Commission dismissed these same AT&T arguments, ruling that the lack of number portability was an inherent drawback to full and fair competition.<sup>8</sup> The Commission found that AT&T's own studies contending the 800 number portability was not necessary for full competition were fatally flawed. Furthermore, the Commission explicitly stated that:

None of the other evidence submitted by AT&T is inconsistent with our conclusion that number portability is a partial barrier to competition in 800 services.<sup>9</sup>

In the instant proceeding, AT&T has offered no new evidence that demonstrates that 800 number portability is not required in the 800 marketplace for a fuller level of competition.

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<sup>7</sup>AT&T Comments, p. 5, footnote 2.

<sup>8</sup>In the Matter of Competition in the Interstate Interexchange Marketplace, CC Docket No. 90-132, Report and Order (IXC Order), 6 FCC Rcd. No. 21, at 5904 (1991).

<sup>9</sup>Id.

Therefore, the Commission must postpone any relaxation of the Basket 2 price cap rules until after number portability has become generally available for an appropriate period of time. Moreover, the Commission must rigorously enforce unbundling requirements and prevent AT&T from engaging in unlawful term commitment programs for 800 services.

**III. AT&T's CONTENTIONS REGARDING THE COMPETITIVENESS OF THE OPERATOR SERVICES MARKETPLACE ARE MISLEADING**

In its fervor to remove itself from price cap regulation, AT&T has painted a picture of the operator services marketplace that blatantly ignores the unequal access afforded AT&T's competitors in that marketplace. End users customers, who wish to place calls using a particular operator service provider (OSP) other than AT&T, must embark on a search for a telephone presubscribed to their carrier of choice, or dial extra digits or access codes to connect with their carrier of choice.<sup>10</sup> This lack of true equal access is an impediment to full competition in the operator services segment of the market.

AT&T alleges that the number of OSPs and its alleged declining market share are sufficient proof that this sub-market is competitive.<sup>11</sup> However, sheer numbers of competitors, especially when many of these are limited in the geographical scope of originating calls, are not sufficient conditions for full and equal competition.

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<sup>10</sup>It should be noted that the former choice is often times fraught with large barriers and transaction costs. Many times, entire hotels, airports, hospitals, universities, and other institutions and public places have provided OSPs with a virtual locational monopoly.

<sup>11</sup>AT&T Comments, pp. 23-26.

AT&T attempts to point to a declining market share of interLATA operator services minutes as evidence of competition.<sup>12</sup> Unfortunately, AT&T has not shown the sources of these unsubstantiated market share estimates. AT&T attempts to paint the best possible picture, by comparing alleged market share data from the first quarter of 1987 -- prior to public telephone presubscription -- with the first quarter of 1992.<sup>13</sup> While one would suppose that AT&T would lose some market share during the presubscription process, AT&T does not provide the Commission with the time series of that market share data, nor with the actual market share data relating to the percentage of public telephones presubscribed to AT&T. The former data would offer the Commission a view as to whether AT&T's market share erosion was a continuing one, or whether the erosion occurred solely within the presubscription period, and has since halted. Also, the measure of AT&T's share of public telephone presubscription would add insight to the Commission.

The Commission's judgement of the competitiveness of the operator services marketplace must recognize the lack of equal access in this arena. The correction of this phenomena through billed party preference must be recognized as a requirement before price cap regulation for this sub-market is reduced.

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<sup>12</sup>AT&T provides other unsubstantiated market share data under operator services. That data -- share of AT&T cards as a proportion to all cards, share of calling card-only traffic, share of calls using an AT&T card -- is irrelevant to the question of AT&T's dominance of the total operator services interLATA market.

<sup>13</sup>AT&T Comments, p. 25.

**IV. UNIFORM TREATMENT OF LOCAL EXCHANGE COMPANY AND COMPETITIVE ACCESS PROVIDER ACCESS CHARGES IS UNNECESSARY**

SWBT and US WEST contend that uniform treatment of access charges is desirable under AT&T's price cap formula, a position that the Commission has previously rejected in the price cap proceeding. These companies allege that the differential treatment afforded competitive access provider (CAP) and LEC access charges creates distorted incentives for AT&T.<sup>14</sup> Under these LECs' logic, AT&T has the incentive to purchase access from LECs when the LEC prices are increasing, and from CAPs when LEC prices are falling. Unfortunately, this analysis is partial at best, and illustrates the difference between the LEC monopoly and the relative competition within the IXC marketplace.

For the proposed analysis to hold true, AT&T would have to be a cost-plus monopoly provider, interested only in holding its prices at the highest level allowable within the price cap formula. Only then would it receive benefits from pursuing the strategy suggested by US WEST and SWB. If, however, AT&T faces price competition in the provision of its own services, AT&T will be forced to price relative to the market price established by the competitive supply of interexchange services. The price cap will not provide the discipline, but rather the marketplace. Moreover, in the competitive scenario, AT&T's access purchases will be guided by the absolute price differential between CAP and LEC access services, and it will desire to purchase access from the lowest price provider, all other things equal. These LECs have added nothing new to the record at this juncture,

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<sup>14</sup>SWB Comments, p. 1-3; US WEST Comments, p. 3-5.

therefore the Commission must reject the proposal of SWB and US WEST as unnecessary and irrelevant.

**V**    **Conclusion**

AT&T price caps were a valid response to increasing competition in the interexchange market. As competition continues to develop, it is appropriate for the Commission to modify or eliminate price caps. However, it would be a mistake to attribute the benefits of competition to price cap regulation. The Commission's primary public policy objective for the interexchange market should be to take the proactive pro-competitive steps described in these Reply Comments.

Respectfully submitted,

MCI TELECOMMUNICATIONS  
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Dated: October 5, 1992

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on October 5th, 1992.



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CERTIFICATE OF SERVICE

I, Laura Johnson, do hereby certify that copies of the foregoing MCI Filing were sent via first class mail, postage paid, to the following on this 5th day of October, 1992:

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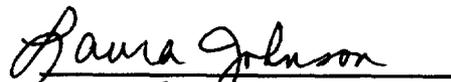
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